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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/696,720      | 10/24/2000  | Theodore W. Watler   | 13023(B)            | 3022             |

7590

06/02/2003

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EXAMINER

DAVIS, TEMICA M

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/696,720

Applicant(s)  
Walter et al.

Examiner  
Temica M. Davis

Art Unit  
2681



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 24, 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 24, 2000 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show reference numeral 10 in figure 1 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2 and 4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1, 6 and 15 of U.S. Patent No. 6,138,004. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Specifically, claim 1 of the present application and claim 1 of the above identified patent disclose an interlink receiver system for encoding wireless phone units with security codes comprising a host computer, an interlink receiver unit remote from the host computer, connecting means between the interlink receiver and a wireless phone unit for communicating, authentication means in the interlink receiver unit that authenticates the interlink receiver unit using stored authentication code of the interlink receiver and cooperative authentication means in the host computer for authenticating the interlink receiver and authorizing exchange of data between the host computer and interlink receiver.

Claim 2 of the present application and claim 6 of the above identified patent both claim the interlink receiver as described above and further including wherein the host computer has

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data in the form of security codes and program means for transferring data when the interlink receiver unit is in communication with the host computer.

Claim 4 of the present application and claim 15 of the above identified application both claim an interlink receiver for entering/activating security codes in wireless phone units under control of a remote host computer, the interlink receiver unit comprising internal electronic circuitry, protected memory communications means for exchanging data between the interlink receiver unit and the host computer and data transfer means for transferring activation commands/security code data to the wireless phone unit in communication with the interlink receiver unit on command by the host computer.

4. Claims 3 and 5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 15 of U.S. Patent No. 6,138,004 in view of Lynch et al (Lynch), U.S. Patent No. 5,761,618.

Regarding claims 3 and 5, U.S. Patent No. 6,138,004 discloses the interlink receiver system/unit as described above. U.S. Patent No. 6,138,004, however, fails to disclose wherein the interlink receiver unit is in the form of a smart card.

In a similar field of endeavor, Lynch discloses remotely downloading new system data into the memory of a wireless device/handset. Lynch further discloses the use of a smart card which acts as an interlink receiver in order to download information to the wireless device/handset (col. 18, line 59-col. 19, line 4).

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At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify U.S. Patent No. 6,138,004 with the teachings of Lynch for the purpose of allowing manual downloading of information, which would, in certain instances, be desirable by the user when maintenance is needed (Lynch, col. 19, lines 1-4).

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday from 7:30 am to 5:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service whose telephone number is (703)306-0377.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for any communications intended for entry).

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*Hand-delivered responses should be brought to Crystal Park II, 2121*

*Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).*

TMD

May 30, 2003

  
**TEMICA M. DAVIS**  
**PATENT EXAMINER**